

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Madeleine Matz	Team: Squad #12	CCRB Case #: 202300597	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 12/11/2022 2:11 AM	Location of Incident: § 87(2)(b) in Brooklyn		18 Mo. SOL 6/11/2024		Precinct: 60
Date/Time CV Reported Fri, 12/30/2022 11:26 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 12/30/2022 11:26 AM		
Complainant/Victim	Type	Home Address			
Witness(es)	Home Address				
Subject Officer(s)	Shield	TaxID	Command		
1. SGT Jose Holguin	05495	935027	060 PCT		
2. PO Daniel Defrancesco	03876	964479	060 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. PO Andy Guo	01224	961801	060 PCT		
2. PO Ryan Derossi	25517	971036	060 PCT		
Officer(s)	Allegation			Investigator Recommendation	
A . SGT Jose Holguin	Abuse: Sergeant Jose Holguin threatened to remove § 87(2)(b) to the hospital.				
B . SGT Jose Holguin	Off. Language: Sergeant Jose Holguin made offensive remarks to § 87(2)(b)				
C . PO Daniel Defrancesco	Abuse: Police Officer Daniel Defrancesco entered § 87(2)(b) in Brooklyn.				

Case Summary

§ 87(2)(b) filed this complaint via telephone with the CCRB on December 30, 2022 (**BR 01**).

At approximately 2:11 AM on December 11, 2022, Sgt. Jose Holguin and PO Daniel DeFrancesco of the 60th Precinct responded to § 87(2)(b) Brooklyn for a 911 call placed by § 87(2)(b) regarding prior interaction with other NYPD officers on December 10, 2022 § 87(2)(b). Two ACS workers were present. Sgt. Holguin told § 87(2)(b) that if she continued to call 911, then he would have to take her to a hospital (**Allegation A: Abuse of Authority**, § 87(2)(g)). Sgt. Holguin then told § 87(2)(b) that it seemed like she had “mental issues” (**Allegation B: Offensive Language**, § 87(2)(g)). § 87(2)(b) tried to close her door, and PO DeFrancesco put his foot inside her doorway to prevent her from doing so (**Allegation C: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was not summonsed or arrested during this incident.

The investigation obtained Body-Worn Camera (BWC) videos recorded by Sgt. Holguin, PO DeFrancesco, PO Andy Guo, and PO Ryan Derossi of the 60th Precinct (**BR 02**), summarized in IA #22 (**BR 03**).

Findings and Recommendations

Allegation (A) Abuse of Authority Sergeant Jose Holguin threatened to remove § 87(2)(b) to the hospital.

Allegation (B) Offensive Language: Sergeant Jose Holguin made offensive remarks to § 87(2)(b)

It is undisputed that § 87(2)(b) called 911 because ACS workers arrived at her home, and that she then spoke to Sgt. Holguin and PO DeFrancesco from inside of her apartment while the officers stood in the hallway. It is further undisputed that Sgt. Holguin asked § 87(2)(b) why she had called 911, and then stated that he was going to have § 87(2)(b) hospitalized and that it seemed like she had “mental issues.”

§ 87(2)(b) was interviewed by the CCRB on December 30, 2022 (**BR 04**). § 87(2)(b) stated that she called 911 and requested a sergeant to her location. Four officers responded and asked her why she had called 911. § 87(2)(b) felt that the officers’ manner of inquiry indicated that they did not want her to call 911.

Event # § 87(2)(b) (**BR 16**) shows that at 1:47 AM, § 87(2)(b) called 911 and stated that she wanted to make a complaint about EMS and police officers. She complained of an unidentified party being rude and a threat to call ACS. She also requested a sergeant to her location. At 2:25 AM, the job was closed as a non-crime and referred to another agency.

BWC videos capture the entirety of this incident. At timestamp 2:48 in Sgt. Holguin’s BWC, PO DeFrancesco, PO DeRossi, PO Guo and Sgt. Holguin approach § 87(2)(b) door and PO DeFrancesco knocks on the door. At timestamp 3:19, § 87(2)(b) opens the door, and two apparently female voices identify themselves to officers as ACS workers. § 87(2)(b) says that someone called ACS. One of the ACS workers exits the apartment and speaks to PO DeRossi. The ACS worker states that § 87(2)(b) has been calling 911 repeatedly that day, and she and the other ACS worker had just arrived. At timestamp 4:50, Sgt. Holguin asks the ACS worker if she is

removing § 87(2)(b) children. The ACS worker says no and that she does not know why § 87(2)(b) called 911.

At timestamp 5:00, Sgt. Holguin approaches § 87(2)(b) doorway and asks her why she called 911. § 87(2)(b) says that she was just explaining the purpose of her 911 calls to PO DeFrancesco, and then states that she wants to file a complaint about earlier officers who called ACS. § 87(2)(b) speaking softly, says that she called because she wants support from officers. Sgt. Holguin says that he does not understand § 87(2)(b) complaint. § 87(2)(b) repeats that she wants to complain about earlier officers having called ACS. § 87(2)(b) asks Sgt. Holguin if he understands what she is saying, and Sgt. Holguin says he does not. § 87(2)(b) says, “Okay, just don’t worry about it.” Sgt. Holguin responds, “Are you suffering from any...” § 87(2)(b) tells Sgt. Holguin that he does not understand and repeats that officers called ACS. At timestamp 6:30, § 87(2)(b) states that ACS workers told her not to call the police. Sgt. Holguin responds “Yeah, you shouldn’t. And if this continues, we’re going to have to take you to the hospital.” § 87(2)(b) looking surprised, motions to herself. Sgt. Holguin continues, “You need to go to the hospital. Because it seems like you’re not... you have a mental issue or something.” § 87(2)(b) asks, “What? Because I called for support?” Sgt. Holguin responds, “If you keep calling police for no reason, yes, then there’s something...” § 87(2)(b) states that she has a reason to call for police, and that if Sgt. Holguin has an issue with that, she will call the CCRB. § 87(2)(b) explains that the precipitating incident was a physical altercation between her sons. § 87(2)(b) says, “You know - sir, you have a good day. Have a nice day,” and says, “Thank you,” twice more. An ACS worker engages § 87(2)(b) in a conversation about other calls she has made to 911 about her children. At timestamp 8:10, Sgt. Holguin tells PO DeFrancesco to “take care of it,” and he departs.

Sgt. Holguin was interviewed by the CCRB on April 25, 2023 (BR 05). Sgt. Holguin stated that § 87(2)(b) seemed “woozy” and “disoriented” during their interaction. Sgt. Holguin stated that something “seemed off” about § 87(2)(b) and that he “did not know for sure,” but that ACS said that “everything was fine.” Sgt. Holguin also felt that § 87(2)(b) reasoning for calling 911 – that ACS workers had responded to her home – made “no sense” and that § 87(2)(b) calling 911 was “inappropriate.” Sgt. Holguin stated that he had no prior familiarity with § 87(2)(b) or knowledge of prior interactions between her and police, but he believed that the 911 call she had made on December 10, 2022, paired with the 911 call to which he responded on December 11, 2022, to constitute repeated 911 calls, and that such repeated calls indicated to him that § 87(2)(b) was not mentally stable. Sgt. Holguin stated that this was reason enough to call EMS to evaluate § 87(2)(b) and that EMS would have made the final decision as to whether § 87(2)(b) would have been hospitalized. Sgt. Holguin stated that he was not concerned that § 87(2)(b) was in medical distress for any reason other than her wooziness and repeated 911 calls. Sgt. Holguin stated that he told § 87(2)(b) that it seemed like she had “mental issues” for the above reasons, and for no other reason, and that he did not intend such a statement to be offensive. EMS was not called, and Sgt. Holguin had no conversation with other officers about calling EMS to the location.

PO DeFrancesco was interviewed by the CCRB on April 28, 2023 (BR 06). PO DeFrancesco stated that § 87(2)(b) “seemed angry” with officers as indicated by a raised voice and sarcastic tone, but that he otherwise noticed nothing out of the ordinary about her.

NYPD Patrol Guide Procedure 221-13 (BR 08) states that officers must call EMS to hospitalize someone who is mentally ill or temporarily deranged and is conducting themselves in a manner that a police officer reasonably believes is likely to result in serious injury to himself or others.

NYPD Patrol Guide Procedure 200-02 (BR 09) states that members of service will treat people with dignity and render their services with courtesy and civility.

Sgt. Holguin's stated reasons for believing that § 87(2)(b) needed psychiatric evaluation – her apparent wooziness, and her calls to 911 – § 87(2)(g)

§ 87(2)(b) Sgt. Holguin did not articulate any valid reason to believe that § 87(2)(b) posed a threat to herself or to anyone else. Additionally, Sgt. Holguin took no additional steps to investigate § 87(2)(b) medical or mental state and did not call EMS or discuss doing so with anyone else. Finally, although he stated in his CCRB interview that EMS would have the final say in hospitalizing § 87(2)(b) his BWC video shows him stating that officers would take her to the hospital. § 87(2)(g)

Sgt. Holguin's statement that § 87(2)(b) seemed like she had "mental issues" § 87(2)(g) this statement belittled § 87(2)(b) on the basis of her perceived mental health status. § 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Daniel DeFrancesco entered § 87(2)(b) in Brooklyn.

It is undisputed that when § 87(2)(b) stated that she did not want to speak to officers anymore and tried to close her apartment door, PO DeFrancesco used his foot to stop § 87(2)(b) from closing her door.

§ 87(2)(b) stated that after speaking to the officers briefly, she decided she no longer wanted to speak to them and attempted to close her apartment door. PO DeFrancesco placed his foot on the threshold, in the path of § 87(2)(b) door, preventing her from fully closing the door. § 87(2)(b) asked PO DeFrancesco why he was putting her foot in his door, and he responded, "I can do that." PO DeFrancesco then removed his foot from the door and left.

In PO DeFrancesco's BWC video, at 7:08, PO DeFrancesco stands at § 87(2)(b) apartment door, next to Sgt. Holguin. § 87(2)(b) says to Sgt. Holguin, "You know - sir, you have a good day. Have a nice day." She then says, "Thank you. Thank you. You have a nice day." An ACS worker engages § 87(2)(b) in a conversation about other calls she has made to 911 about her children. At timestamp 8:00, Sgt. Holguin is audible instructing PO DeFrancesco to "take care of it," and, as shown is Sgt. Holguin's BWC video (detailed above), Sgt. Holguin then walks away. PO DeFrancesco moves closer to § 87(2)(b) apartment door. At 8:15, § 87(2)(b) gestures downward and asks PO DeFrancesco to remove his foot from her doorway. PO DeFrancesco responds, "Um, no, because right now we're here assisting ACS." § 87(2)(b) states that PO DeFrancesco has no right to put his foot in her doorway and PO DeFrancesco says, "I do. You called us." § 87(2)(b) asks PO DeFrancesco to remove his foot, and PO DeFrancesco says, "No." § 87(2)(b) says, "You don't have a warrant." PO DeFrancesco says, "I am providing assistance to her, her," referring to the two ACS workers on scene, and then, "They are here on behalf of the city, and so are we."

No BWC video captures any ACS workers asking any officers for a police escort into § 87(2)(b) apartment or stating that they were concerned about their own safety or the safety of anyone else in the apartment.

Sgt. Holguin stated that he did not give PO DeFrancesco any instruction about entering § 87(2)(b) apartment and that ACS workers did not indicate at any time that they wanted officers to enter the apartment.

PO DeFrancesco stated that he felt his role in this situation was to guarantee the safety of the ACS workers on scene. PO DeFrancesco stated that he put his foot in § 87(2)(b) doorway in order to speak to § 87(2)(b) to evaluate what was happening in her apartment, and to ensure the safety of ACS workers. PO DeFrancesco confirmed that § 87(2)(b) and not the ACS workers, had called 911, and further stated that the ACS workers did not ask him to provide an escort or accompany them into § 87(2)(b) apartment. PO DeFrancesco stated that the quiet demeanor of the ACS workers indicated to him that they wanted a police escort while speaking to § 87(2)(b). PO DeFrancesco also stated that § 87(2)(b) did not make any threatening statement, gesture, or other actions toward any ACS worker or NYPD officer. PO DeFrancesco stated that § 87(2)(b) “seemed angry” with officers as indicated by a raised voice and sarcastic tone, but that he otherwise noticed nothing out of the ordinary about her. He was not concerned that there was an emergency occurring in § 87(2)(b) apartment.

NYPD Patrol Guide Procedure 215-22 (**BR 11**) states that, when requested, officers may accompany ACS workers into private residences to assure the safety of all persons present when an ACS worker is concerned for [their] personal safety and there is an associated complaint with the State Central Registry.

People v. Doll, 21 N.Y.2d 665 (2013) (**BR 12**) states that officers may make a warrantless entry into a home – an exception to the protections of the Fourth Amendment – when they have reasonable grounds to believe that there is an emergency at hand.

Under PG 215-22, PO DeFrancesco could have entered § 87(2)(b) apartment if ACS workers had requested that he do so, but no such request was made. BWC videos show that the ACS workers gave no indication that they were in any danger or required police assistance. PO DeFrancesco stated only that he interpreted the ACS workers’ silence as their need for assistance. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
§ 87(2)(b)
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- Sgt. Holguin has been a member of service for 18 years and this is the first CCRB complaint to which he has been a subject.
- PO DeFrancesco has been a member of service for five years and has been a subject in three CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)

§ 87(2)(g)


Mediation, Civil, and Criminal Histories

- § 87(2)(b)
- As of April 19, 2023, the New York City Office of the Comptroller had no record of a Notice of Claim being filed in regard to this incident (**BR 13**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad: 12

Investigator:  Investigator Madeleine Matz 5/1/2023
Signature Print Title & Name Date

Squad Leader: Samuel Ross IM Samuel Ross 05/02/2023
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date